

New Legislation

County Auditors'
Spring Conference
May 2011

HEA 1174

- Amends IC 36-1-11-4 Effective July 1, 2011
- Real property disposed of by the unit may be sold for less than 90% of the average of the 2 appraisals after additional notice stating the amount of the bid to be accepted is published
- If all bids rejected the disposing agent must make a written determination explaining why
- A disposing agent may hire a broker to sell real property directly rather than using the bid process
- Amends IC 36-1-11-10
- If leasing then may be leased for less than 90% of the average of the 2 appraisals after additional notice stating the amount of the bid to be accepted is published.
- May reject all offers. Must be in writing why

HEA 1004

- Public Purchasing
- Adds new sections IC 5-22-15-20.9 and IC 36-1-12-22
- Applies only to a contract awarded by a political subdivision
- Allows for price preferences from a local Indiana business
- Sets the preference amounts
- Criteria for a local business to meet
- Effective July 1, 2011

SEA 60

- Public Works
- Amends IC 36-1-12-4(7) Effective July 1, 2011
- Amended the bidding process
- Bids may be opened after the time designated if:
 - The Board makes a written determination that it is in the best interest of the Board to delay
 - The day, time, and place of the rescheduled opening are announced at the day, time, and place of the originally scheduled opening

SEA 418 and House 1216

- Public Works-Common Construction Wage
- SEA 418 Amends IC 5-16-7-1 Effective July 1, 2011
- Puts time limit of 3 months that the wages determined by the committee may be applied to a contract
- If the wages determined by the committee do not include a classification for a contract being advertized for the awarding agency will form a new committee to determine classification and wages
- If contract let after the 3 months, new committee must be formed to determine wages for the contract
- HEA 1216 Amends IC 5-16-7-1 Effective July 1, 2011
- To be subject to this chapter the minimum amount of actual construction costs of a project were increased from \$150,000 to \$250,000 for those contracts awarded after 12/31/12 and increased to \$350,000 after 12/31/13

SEA 533

- Amends IC 5-30 Effective July 1, 2011
- Design-Build Public Works Projects
- Amends IC 5-30-4-4, exceptions to open door policy
- Amends IC 5-30-5-1, criteria for differing timing of response to notice to the request for qualifications
- Amends IC 5-30-6-1, to require that if a controlled project, request for proposals may not go out until procedures under IC 6-1.1-20-3.6 be completed
- Added IC 5-30-6-5.5, deliverables required for a qualitative proposal
- Amends IC 5-30-7-3, what must be included in the scoring for each qualitative proposal

HEA 1004

- Amends IC 36-1-12-3
- Increases the estimated cost of a public work project that may be done by a unit's own workforce from \$100,000 to \$150,000
- Own workforce may do only if
 - through demonstrated skill the workforce is capable of performing the public work
 - for a project over estimated \$100,000 the board
 - Publishes a notice that describes the public work and sets forth the projected cost of each component
 - Determines at a public meeting that is in the public interest to perform with own workforce

HEA 1004 Continued

- Amends IC 36-1-12-4 requiring bids for a public works project
- Increased the minimum cost to \$150,000 for all counties
- Amends IC 36-1-12-4.7 requiring quotes for a public works project
- Increased the minimum estimated cost range to at least \$50,000 and less than \$150,000

HEA 1004 Continued

- Amends IC 5-11-1-26
- We are to give opinion on whether or not the unit has complied with IC 36-1-12-3 and IC 36-1-12-19 in performing public works projects with its own workforce

HEA 1004 Continued

- Amends IC 5-11-1-4 Effective July 1, 2011
- **(a)** The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be filed electronically, in a manner prescribed by the state examiner that is compatible with the technology employed by the political subdivision.
- **(b) The department of local government finance may not approve the budget of a political subdivision or a supplemental appropriation for a political subdivision until the political subdivision files an annual report under subsection (a) for the preceding calendar year.**

HEA 1004 Continued

- Amended IC 5-11-13-1 Effective July 1, 2011
- Annual report on employee compensation
- Submitted in January
- **(b) The department of local government finance may not approve the budget of a county, city, town, or township or a supplemental appropriation for a county, city, town, or township until the county, city, town, or township files an annual report under subsection (a) for the preceding calendar year.**

SEA 217

- Amended IC 35-44-1-2
- Official misconduct
 - Sec. 2. A public servant who knowingly or intentionally:
 - (1) commits an offense in the performance of the public servant's official duties;
 - (2) solicits, accepts, or agrees to accept from an appointee or employee any property other than what the public servant is authorized by law to accept as a condition of continued employment;

SEA 217 continued

- (3) acquires or divests himself or herself of a pecuniary interest in any property, transaction, or enterprise or aids another person to do so based on information obtained by virtue of the public servant's office that official action that has not been made public is contemplated; or
- (4) fails to deliver public records and property in the public servant's custody to the public servant's successor in office when that successor qualifies; commits official misconduct, a Class D felony.
- Effective July 1, 2011

SEA 559

- Amends IC 35-44-1-3
- Conflict of interest
- Still must be submitted to State Board of Accounts
- Any question, consult with county attorney
- Effective July 1, 2011

SEA 590

- "Immigration Bill" Effective July 1, 2011
- Adds IC 12-32, restrictions on public benefits to illegal aliens, states in part:..."federal public benefit" has the meaning set forth in 8 U.S.C. 1611. "state or local public benefit" has the meaning set forth in 8 U.S.C. 1621.
 Sec. 5. (a) Notwithstanding any other provision of law and except as otherwise provided under federal law, an agency or a political subdivision shall verify, in the manner required under section 6 of this chapter, the eligibility of any individual who:
 - (1) is at least eighteen (18) years of age; and
 - (2) applies for state or local public benefits or federal public benefits that are provided by the agency or the political subdivision.

SEA 590 Continued

- Sec. 6. An agency or a political subdivision required to verify the eligibility of an individual under section 5 of this chapter shall:
 - (1) require the individual to execute a verification stating under penalty of perjury that the individual is a:
 - (A) United States citizen; or
 - (B) qualified alien (as defined under 8 U.S.C. 1641); and
 - (2) maintain a verification executed in accordance with subdivision (1) for at least five (5) years. .

SEA 590 Continued

- Sec. 9. The state board of accounts:
 - (1) shall adopt rules under IC 4-22-2, applicable to all political subdivisions, to carry out this chapter; and
 - (2) may adopt a variation of the requirements set forth in this chapter, applicable to all political subdivisions, to provide for an adjudication in the case of unique individual circumstances under which the procedures set forth in this chapter would impose an unusual hardship on a legal resident of Indiana.

SEA 590 Continued

- 8USC1621 states in part:
- “(c) “State or local public benefit” means-- (A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

SEA 590 Continued

- (b) Exceptions Subsection (a) of this section shall not apply with respect to the following State or local public benefits: (1) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition (as defined in section 1396b(v)(3) of title 42) of the alien involved and are not related to an organ transplant procedure. (2) Short-term, non-cash, in-kind emergency disaster relief. (3) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

SEA 590 Continued

- (4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety."

SEA 590 Continued

- Adds IC 22-5-1.7
- IC 22-5-1.7-10 states in part: "...political subdivision shall use the E-Verify program to verify the work eligibility status of all employees...hired after June 30, 2011."
- After June 30, 2011 a political subdivision may not enter into or renew a public contract for services with a contractor unless:
 - The public contract contains a provision requiring the contractor to enroll and verify eligibility status of newly hired employees through the E-Verify program
 - The contractor signs an affidavit affirming that the contractor does not knowingly employ unauthorized aliens

SEA 590 Continued

- A political subdivision may not award a grant of more than \$1000 to a business entity unless the business entity
 - Signs a sworn affidavit that affirms that it is enrolled and participating in the E-Verify program
 - Provides documentation supporting this
 - Signs affidavit affirming that the business entity does not knowingly employ an unauthorized alien
- Gives guidance on what steps may be taken if there is a violation
- Gives guidance on subcontractor requirements

SEA 590 Continued

- What is E-Verify?
- It is an internet-based system that is operated by the U.S. Department of Homeland Security in partnership with the Social Security Administration
- Allows an employer to determine the eligibility of employees to work in the U.S.
- There is no charge
- www.dhs.gov/files/programs

HEA 1025

- Amends IC 5-4-1-18 Effective July 1, 2011
- Officials Bonds
- Takes out the wording annual coverage
- Adds section (k) Both of the following apply to a bond or crime insurance policy that is filed to comply with this section (1) Unless the bond or policy is canceled, the bond or policy must continue in force for the term of office of the individual who files the bond or policy. (2) The aggregate liability of the surety or insurer is the amount specified in the bond or policy.

HEA 1025 Continued

- Adds section IC 5-11-1-27 Effective July 1, 2011
 - (a) As used in this section, "local government" means county, city, town, or township.
 - (b) In the compliance guidelines authorized under section 24 of this chapter, the state board of accounts shall define the acceptable minimum level of:
 - (1) internal control standards; and
 - (2) internal control procedures;
- for internal control systems of local governments. The internal control standards and procedures shall be developed to promote government accountability and transparency.

HEA 1025 Continued

- (c) All erroneous or irregular variances, losses, shortages, or thefts of local government funds or property shall be reported immediately to the state board of accounts. The state board of accounts shall:
 - (1) determine the amount of funds involved and report the amount to the appropriate government and law enforcement officials;
 - (2) determine the internal control weakness that contributed to or caused the condition; and
 - (3) make written recommendations to the appropriate legislative body or appropriate official overseeing the internal control system addressing:
 - (A) the method of correcting the condition; and
 - (B) the necessary internal control policies and internal control procedures that must be modified to prevent a recurrence of the condition.

HEA 1025 Continued

- (d) The legislative body or the appropriate official overseeing the internal control system shall immediately implement the policies and procedures recommended by the state board of accounts under subsection (c)(3)(B).

SEA 34

- Adds IC 11-13-4.5-8 Effective July 1, 2011
- The fiscal body of each county shall establish a county offender transportation fund .
- Used for the purpose of defraying the costs of returning to the state probationers who violate their conditions of supervision
- Fiscal body appropriates as requested by the probation department
- Does not revert

SEA 34 Continued

- IC 11-13-4.5-4 Amended An Indiana offender or delinquent child on probation who applies to be transferred out of state under the interstate compact shall pay an application fee of \$125 to the county probation department
- Fee was increased from \$75
- Before 50% was deposited into the supplemental adult probation services fund and 50% sent to the Indiana Judicial Center
- 50% will be deposited into the offender transportation fund
- 50% will be sent to the Indiana Judicial Center

SEA 215

- Amends IC 34-24-1-4 Effective July 1, 2011
- Seized money or proceeds from the sale of seized property
- Deposited into the county's asset forfeiture fund established by ordinance
- Distribution:
 - Administrative fee
 - Common School
 - Participating law enforcement

SEA 465

- Amends IC 31-25-4-23 and Adds IC 31-25-4-23.5
- Effective July 1, 2011
- Child Support Incentive Funds
- Instead of 22.2% distributed into the county general fund a new fund is authorized

SEA 388

- Amends IC 5-1-14-1.3 and Adds IC 5-1-14-17.2
- Effective July 1, 2011
- Allows for swap agreements for financing but not investments
- Defines swap agreement-has the meaning set forth in IC 8-9.5-9-4, except that the term includes a swap agreement entered into by an issuing body (as defined in section 17.2(b) of this chapter) only if any part of the payments owed by the issuing body under the agreement, including any termination or settlement payments, is payable out of:
 - (A) tax revenues; or
 - (B) a special assessment.

SEA 464

- Public Funds Effective July 1, 2011
- Adds IC 5-13-4-21.3
 - Public Servant has the meaning set forth in IC 35-41-1-24
- Amends IC 5-13-14-3 A public servant who knowingly or intentionally:
 - (1) fails to deposit public funds; or knowingly
 - (2) deposits or draws any check or negotiable order of withdrawal against the funds; except in the manner prescribed in this article, commits a Class A misdemeanor. However, the offense is a Class D felony if the amount involved is at least seven hundred fifty dollars (\$750), and a Class C felony if the amount involved is at least fifty thousand dollars (\$50,000). The public officer servant also is liable upon the officer's public servant's official bond for any loss or damage that may accrue.

SEA 205 and HEA 1297

- Payment of service charge to depository
- Amends IC 5-13-9-8
- The service charge may be paid:
 - (1) by direct charge to the deposit or other account; or
 - (2) in a manner that subtracts the service charge from interest earned on the funds in the deposit or other accounts
- Effective Upon Passage

SEA 169

- Transfer on Death Deed
- Clarifies when endorsement of auditor needed
- Adds IC 32-17-14-11(i) The endorsement of the auditor under IC 36-2-11-14 is not necessary to record a transfer on death deed
- Amends IC 32-17-14-26 (b) (20) to add The affidavit must be endorsed by the county auditor under IC 36-2-11-14 in order to be recorded
- Effective Upon Passage

SEA 62 and HEA 1001

- Amends IC 6-3.5-1.1 CAGIT, IC 6-3.5-6 COIT, and IC 6-3.5-7 CEDIT
- SEA 62 Effective upon passage
- 2010 Acts added sections with application dates
- This conforms references to ordinance adoption dates in the local income tax laws to the dates specified in 2010
- HEA 1001 Effective July 1, 2011
- The part of a supplemental distribution that is attributable to an additional rate shall be used for the purpose specified in the in the statute authorizing the additional rate is not required to be deposited in the rainy day fund

HEA 1007

- Adds IC 6-3.5-9
- A city or county that receives a certified distribution of tax imposed under IC 6-3.5-1.1, (CAGIT), IC 6-3.5-6 (COIT), or IC 6-3.5-7 (CEDIT) may offer hiring incentives to foster job creation
- This incentive is based on an agreement between the taxpayer and county
- the fiscal body approves the agreement if it meets conditions as outlined in the statute
- The county submits an annual report to the Indiana Economic Development Commission
